

AUG 01 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GERMAINE ROSHAN WHEELER,

Defendant - Appellant.

No. 05-50388

D.C. No. CR-03-00098-VAP-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Virginia A. Phillips, District Judge, Presiding

Submitted July 24, 2006**

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Germaine Roshan Wheeler appeals from the 100-month sentence imposed following his guilty-plea conviction for armed bank robbery, in violation of 8

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

U.S.C. § 2113(a), (d). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we remand with instructions to correct the judgment.

Wheeler contends that his sentence should be remanded to the district court because the written judgment and oral pronouncement of sentence were inconsistent with each other. We agree and remand to the district court with instructions to correct the written judgment to conform with the oral pronouncement's supervised release condition that Wheeler submit to one drug test within 15 days of release from imprisonment and two periodic drug tests thereafter. *See United States v. Hicks*, 997 F.2d 594, 597 (9th Cir. 1993).

REMANDED.